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12 AMERICAN GENERAL FINANCIAL SERVICES, INC.

13 UNITED STATES BANKRUPTCY COURT FOR THE
14 NORTHERN DISTRICT OF CALIFORNIA

15 SANTA ROSA DIVISION

16 CHARLES DENIS DOWNIE and LYDIA
17 DOWNIE,
18 Debtors.

Bk. No. 10-11995-AJ

Chapter 13

OPPOSITION TO DEBTORS' MOTION TO
AVOID LIEN AND REQUEST FOR
HEARING

Hearing-

Date: HEARING REQUESTED

Time

Place: Bankruptcy Court

99 S E Street

Santa Rosa, CA

19 AMERICAN GENERAL FINANCIAL SERVICES, INC. ("Lender") hereby submits this
20
21 Opposition to Debtor's Motion to Avoid Lien and Request for Hearing. This Opposition is based
22
23 on the pleadings and records on file in this matter as well as the within Memorandum.
24

25 I.

26 FACTS

27 1. Lender is the current payee of a Promissory Note Dated July 7, 2006, in
28 the principal amount of \$41,072.00 (the "Note") secured by a Second Deed of Trust of same

date, which bears interest as specified therein. The original Note is held by Lender and a copy is attached hereto as Exhibit "A" and is incorporated herein by reference.

2. The indebtedness evidenced by the Note is secured by a Deed of Trust executed and recorded in Lake County and which encumbers the real property located at **10133 Fairway Drive, Kelseyville, CA 95451** (the “Property”).

3. Pursuant to the Debtors' Motion to Avoid Lender's Lien, Debtors assert that the Property is worth approximately \$120,000.00. In addition, Debtors assert a lien on the Property in favor of Dp Vet Affairs ("Senior Lienholder") in the total amount of \$178,328.46.

4. Lender asserts that the value of the Property is in excess of \$178,328.46. Lender has been working with Debtors' Counsel and Lender has an appraisal scheduled for Monday, February 7, 2011 at 12:00 p.m. at which point, Lender believes the updated value of the Property will be sufficient to show the value exceeds the liens.

II.

MEMORANDUM OF POINTS AND AUTHORITIES

The burden is on the Debtors to show that a lien impairs an exemption and that the lien should be avoided (See Mohring v. Avco Financial Services, (In Re Mohring) (1994 U.S. App Lexis 11091)).

A hearing should be set on valuation and Debtors' Motion to Avoid Lien should be denied in the absence of evidence that the Lien of Lender impairs the exemption.

SCHEER & IMFELD, LLP

Date: February 3, 2011

/s/Reilly D. Wilkinson
#250086